



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Ordinance No. 1769 Entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code, Title 12, Chapter 12.12. – Parks – by Adding Article VI, 'Waterfowl and Migratory Birds'"

MEETING DATE: February 15, 2006 (Carried over from meeting of 2/1/06)

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1769.

BACKGROUND INFORMATION: Ordinance No. 1769 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code, Title 12, Chapter 12.12. – Parks – by Adding Article VI, 'Waterfowl and Migratory Birds'" was introduced at the regular City Council meeting of January 18, 2006.

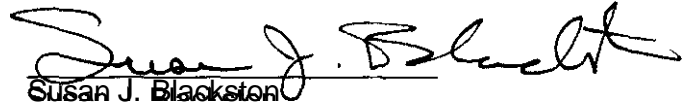
ADOPTION: With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. **Cal. Gov't Code § 36934.**

Ordinances take effect 30 days after their final passage. **Cal. Gov't Code § 36937.**

This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.


Susan J. Blackston
City Clerk

SJB

Attachment

APPROVED: 

Blair King, City Manager

ORDINANCE NO. 1769

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LODI AMENDING LODI MUNICIPAL CODE, TITLE 12,
CHAPTER 12.12 – PARKS – BY ADDING ARTICLE VI,
‘WATERFOWL AND MIGRATORY BIRDS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

Section 1. Lodi Municipal Code Title 12, CHAPTER 12.12 – PARKS – is hereby amended by adding Article VI, ‘WATERFOWL AND MIGRATORY BIRDS,’ to read as follows:

ARTICLE VI

WATERFOWL AND MIGRATORY BIRDS

Sections:

- 12.12.510– Purpose
- 12.12.520 – Definitions
- 12.12.530 – Prohibited Conduct
- 12.12.540 – Violations and Penalties
- 12.12.550 – Enforcement

12.12.510 – Purpose.

- A. The purpose of this Article is to protect the health, safety, and welfare of the City and its wildlife by prohibiting the feeding of waterfowl and migratory birds within City parks and lakes. Feeding waterfowl and migratory birds increases the potential for damage to the flora and fauna of public parks and lakes due to an accumulation of bird droppings, may harm water quality, and increase the potential for the spread of disease to City residents.
- B. It is also the purpose of this Article to protect the welfare of the waterfowl and migratory birds themselves, as wildlife studies have shown that feeding waterfowl and migratory birds can interrupt their normal migration patterns, cause nutritional problems, and promote the spread of bird diseases.
- C. It is also the purpose of this Article to minimize the attraction to waterfowl and migratory birds of residing within City parks and lakes by restricting their feeding and other acts that encourage the birds to halt their natural migration patterns.

12.12.520 – Definitions.

As used in this Article, the terms listed below shall have the meaning assigned them.

“Feed” or “Feeding” means the placing, exposing, depositing, distributing, or scattering, directly or indirectly, of shelled corn, shucked or unshucked, wheat or other grains, breads, popcorn, scraps, salt, or any other feed or nutritive substances likely to be eaten by waterfowl or migratory birds, in any manner or form, so as to lure, attract, or entice waterfowl or migratory birds to, on or over any such areas where such feed items or materials have been placed, exposed, deposited, distributed, or scattered.

"Waterfowl and Migratory Birds" means those species of birds commonly known as "swans," "geese," and "ducks" and any other waterfowl or migratory birds under the jurisdiction of the United States Fish and Wildlife Service.

12.12.530 – Prohibited Conduct.

A. It shall be unlawful for any person to feed, in any public park or upon any public lake, or on any other property owned or operated by the City, any waterfowl or migratory birds.

B. It shall be unlawful to create or foster any condition or allow any condition to exist or continue, which results in a congregation or congestion of waterfowl or migratory birds in any public park or upon any public lake.

12.12.540 – Violations and Penalties.

A. Any person violating the provisions of this Article shall be guilty of an infraction, punishable on conviction as set forth in Section 1.08.010(C) of this Code.

B. Any person convicted of three or more violations of this Article within the twelve-month period immediately proceeding the commission of the latest offense shall have the offense charged as a misdemeanor, punishable as specified in Section 1.08.010(B) of this Code.

C. The continuation of any violation of this Article for each successive day shall constitute a separate offense, and the person committing the violation may be punished for each separate offense as provided herein.

D. Notwithstanding any other provision of this Article, the violation of any provision of this Article may be subject to abatement by a restraining order or injunction issued by a court of competent jurisdiction.

12.12.050 – Enforcement.

This Article may be enforced by a City Police Officer, Animal Control Officer, Code Enforcement Officer, or the Parks and Recreation Director or his/her designee.

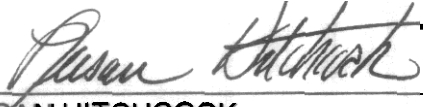
SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall take effect 30 days from and after its passage and approval.

Approved this 15th day of February, 2006



SUSAN HITCHCOCK
Mayor

Attest:


SUSAN J. BLACKSTON
City Clerk

State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1769 was introduced at a regular meeting of the City Council of the City of Lodi held January 18, 2006, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held February 15, 2006, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Johnson, Mounce, and
Mayor Hitchcock

NOES; COUNCIL MEMBERS – Hansen

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

I further certify that Ordinance No. 1769 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

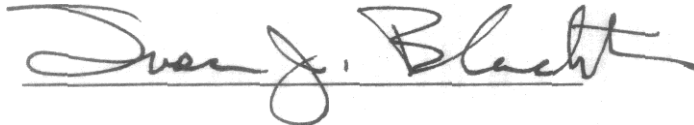
Approved as to Form:

SUSAN J. BLACKSTON
City Clerk

D. STEPHEN SCHWABAUER
City Attorney

By 

Janice D. Magdich
Deputy City Attorney



SUSAN J. BLACKSTON
City Clerk